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C O N F I D E N T I A L SECTION 01 OF 03 BRUSSELS 000268

SIPDIS

STATE FOR EUR/WE AND S/WCI

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SUBJECT: BELGIUM READY TO LISTEN TO PLANS FOR GUANTANAMO  
DETAINEES

Classified By: Charge d'Affaires Wayne Bush, reason 1.4 (b) and (d).

11. (C) Summary and Action Request: S/WCI Ambassador Clint Williamson met with Belgian officials on February 17 and made a formal request that Belgium consider resettling some Guantanamo detainees. The Belgian officials, from the Ministry of Foreign Affairs, the Ministry of Interior, the Federal Prosecutor's office and the office of the Prime Minister, expressed openness to the idea, although at this point they are unable to promise to accept any detainees. MFA officials expressed a wish to have a coherent explanation they can use with the Belgian public of why it is necessary to resettle any detainees in Belgium rather than the U.S. Also, having had a negative experience with resettling Palestinian terrorists who turned to crime once in Belgium, all the officials are cautious about accepting any detainees for resettlement who may pose a risk to Belgium or its neighbors. However, they are willing to review any and all information available on specific detainees whom the USG would want to propose for resettlement in Belgium. Detainees who are low-threat would receive further consideration for resettlement. Belgian officials quietly told Charge subsequent to the visit that it would be much easier politically for Belgium to accept former detainees for whom there has already been issued a release order by U.S. courts. Post recommends that the USG present a list of detainees it identifies as appropriate for resettlement in Belgium to the GOB as soon as possible, along with such information as is available on their backgrounds and personalities, as well as any factors which might make them a risk to society. We do not believe it is necessary to wait for agreement with the European Union to begin this process, since the Belgians consider the final decision to be a national one and review of the information the U.S. provides could go on in parallel to any discussions with the EU. End Summary.

12. (C) Thomas Baekelandt, Counter Terrorism Coordinator for the Ministry of Foreign Affairs, chaired the meeting with Ambassador Williamson for the Belgian side. Baekelandt told Williamson that the GOB is watching the President's recent executive order closing Guantanamo with interest and wants a clearer picture of what will happen with the prison and the detainees over the next 12 months. Williamson replied that the actual details of how to accomplish closure remain to be worked out. However, responsibility for the issue has shifted from the Department of Defense to the Attorney General under the Obama administration and the first step is reviewing the files and history of the detainees before any decisions are made. Each detainee will be evaluated for possible prosecution, transfer to his home country, or resettlement in a third country. The administration believes it is important to remove Guantanamo as an impediment to U.S. foreign policy, he added. Therefore, he said, they are talking to a variety of European governments and the EU about taking detainees. The Obama administration wants to move

quickly, he concluded.

13. (C) Baekelandt told Williamson that the GOB fully supports closure of Guantanamo as a prison and is prepared to help the United States accomplish that. He viewed the USG's review of the detainees' histories positively, since in the end it will be individuals who are considered for transfer, not categories of prisoners. The main question in the minds of Europeans will be why the Americans cannot accept them into the United States, he said. There could be security reasons or technical legal reasons why not. Legal reasons can be discussed and resolved. If the issue is security, he said, the U.S. is shifting a burden on to Belgium that will create a domestic political problem for the GOB, which will have to take a national decision whether to accept detainees.

14. (C) Williamson said that many member states, including the Czechs in their role as EU President, are supportive of the EU creating a "permissive environment" for national action. Previous experience with EU imposed solutions in the case of Palestinian terrorists was negative and was a lesson learned, he said. The United States is ready to take the highest threat detainees but is seeking help with the lower threat echelon. In the course of its review of Guantanamo and the detainees, the USG intends to evaluate not only the detainees themselves but also policy options for the future. Williamson said that while drastic changes in the assessment of individuals are not expected, some threat categorizations could change. He added that this was unlikely with the fifty detainees who had been previously assessed as low threat and cleared for transfer. Baekelandt said that the GOB has received many questions from the public about what it is

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willing to do for the detainees. The GOB wants the U.S. to have done its homework before it discusses how to share the burden.

15. (C) Baekelandt was concerned that even "low threat" detainees may have been radicalized during their stay in Guantanamo. Williamson explained that U.S. assessments of detainees are based on current information, and if they have become more radical their files will reflect that fact. However, high and low risk prisoners were separated in Guantanamo and psychological profiles were performed. Already 525 prisoners have been released, mainly to their home countries, and steps were taken to mitigate risks. The USG is talking to several European countries about taking 24 low risk detainees, including 17 Chinese Uighurs. Rondeux said that she understood that the detainees offered to Europe would be low risk, but asked why the USG did not resettle them in the United States if that is true. Williamson said the U.S. would already be taking many of the most difficult cases, with those detainees being tried in the U.S. and, if convicted, incarcerated there. However, many questions remain in the United States as in Europe. Resettlement would require changes in U.S. law and agreement of the U.S. Congress. Baekelandt said that while Belgium wants to help the USG with the detainees, it will have to have a good answer prepared as to what the legal impediments are in the United States.

16. (C) Nathalie Rondeux, from the Department of Multilateral Affairs (MFA), speculated that high threat detainees may actually be easier cases than the low threat ones; the United States can simply lock up the high threats. Locking up low threat detainees raises problems of human rights. Williamson replied that it is not expected that Belgium or other European states would incarcerate the detainees they take. He said that all the detainees have histories and experience with terrorist training, some more directly than others. Just as when the justice system paroles ordinary criminals, a society will have to accept some risk when it takes in a detainee. The USG is ready to work with Belgium to minimize that risk, Williamson added. Rondeux asked whether any detainees actually want to come to Belgium. Williamson said

that all but 15 of the 520 detainees transferred out of Guantanamo prisoners so far have been returned to their home countries. Of the remaining detainees, 99 are from Yemen and if they are returned there, the population at Guantanamo will be significantly reduced. However, he said, it has been difficult to arrange conditions of security with the Yemeni government. The USG has information from lawyers and the detainees themselves about what they want to do. It wants to avoid simply asking them where they want to go but is making an effort to see that they would likely be able to assimilate in their host country, for example, preparing to send Uzbeks to Lithuania, where there is an Uzbek community and where Russian is spoken. Rondeaux warned Williamson that if they come to Belgium, detainees will undoubtedly be encouraged by NGOs to file complaints against the USG or requests for compensation in Belgian courts, which could create stress in the U.S.-Belgian relationship. She asked whether the USG was willing to pay compensation and if civil suits seeking compensation were anticipated in the U.S.

17. (C) Williamson said that prisoners in the U.S. are generally not entitled to compensation unless their confinement was the result of malicious intent by governmental officials; if there was prima facie evidence of wrongdoing, the burden was very high for prisoners to be awarded compensation. He added that in the case of Guantanamo detainees, there was initially some evidential basis for the detention of all the detainees, although in a number of cases subsequently obtained information or more detailed reviews of the evidence called into question those determinations. Either through decisions by the Department of Defense itself or U.S. courts, it was determined that continued detention was not justified in some cases. He offered to make detainees available for interview by Belgian officials, once the GOB process focused on a few who are good candidates for resettlement. Williamson characterized his approach to the Belgians as an official request to take detainees, but said that the USG will not dictate which detainees the Belgians or any country should take. Baekelandt said that the GOB would resist the designation of a group of detainees as destined for the European Union, to then be doled out by the EU to member countries. He stressed that the decision must be a bilateral U.S.-Belgian one. He and his government will want to have more information on individuals and prefer to receive the lowest possible threat

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detainees. He repeated that Belgium and the U.S. will have to make clear why the United States is unable to resettle the persons who would come to Belgium.

18. (C) Later on February 17, Williamson and Charge d'Affaires met with Dirk Wouters, Diplomatic Advisor to Prime Minister Van Rompuy, Johann Delmulle, Federal Prosecutor and Marc Van Laere, Chief of Staff to Minister of Interior Guido De Padt. Wouters, Delmulle and Van Laere are likely to be influential as the GOB decision-making process goes forward. As with the Ministry of Foreign Affairs officials, Williamson explained the reasons for the USG's request for assistance from Belgium and others with solving the Guantanamo problem. He said that the USG wants to take action as soon as possible but will work with governments to ensure they receive all the information they need. He added that he and the USG are talking to the Czech presidency and the EU Commission, with several meetings scheduled within the next month or so.

19. (C) Wouters said that the GOB has no official position on taking detainees at this point, but added that "the door is open" to the USG's request. An official channel of communication and point of contact within the GOB needs to be established, he said. He continued that the EU should not be expected to make a decision telling members to resettle detainees, but some framework could be helpful. Like his MFA colleagues, Wouters stressed that the ultimate agreement will be a bilateral one between the U.S. and Belgium. He found it difficult to say how long the internal decision-making

process in the MFA would require. In the case of the Palestinians who occupied the Church of the Nativity in Bethlehem, the matter was decided by the Prime Minister. The most important questions to answer, said Wouters are 1) who are these people and 2) how dangerous are they. He said that no Belgian politician wants to be blamed for a serious crime or act of terror in Belgium committed by a detainee he or she agreed to resettle.

¶10. (C) Williamson replied that it is up to the receiving state to decide what kind of restrictions or monitoring, if any, is imposed on detainees it resettles, and repeated that no prosecution is required. Wouters believed that it would be up to the Belgian Surete to keep tabs on former detainees, but was concerned that it does not have manpower to do so intensively. He said that the law allows the government to require the detainees to stay in one place and sign in with the police every two or three weeks. He said the first thing the GOB needs is a list of who could come to Belgium. Williamson answered that a list of nationalities among the detainees is immediately available and complete files on the individuals are being prepared.

¶11. (C) Comment: Post suggests that the USG provide a list of low-threat detainees that it would like to resettle to the GOB as soon as possible, along with as much information as is available on their backgrounds and personalities. Even partial dossiers on each are sufficient, because after some detainees are identified as potentially safe to resettle by the Belgians, more complete information could be provided. We see no need to wait for action by the EU either, as the Belgians have made it clear the final decision will be a bilateral one, and Belgian review of the files could go on in parallel to talks with the EU. The main concern of the GOB will be whether the resettled detainees will be a danger to Belgium or neighboring Schengen countries. A related, but secondary concern expressed by the MFA is how to justify a positive decision to the public in terms of why the USG is not doing the resettlement itself.

¶12. (U) Ambassador Williamson has cleared this cable.

BUSH

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